

38-9a-202. Petition for wrongful lien injunction -- Ex parte injunction.

(1) The petition for a civil wrongful lien injunction shall include:

(a) the name of the petitioner, except that at the petitioner's request his or her address shall be disclosed to the court for purposes of service, but may not be listed on the petition, and shall be maintained in a separate document or automated database, not subject to release, disclosure, or any form of public access except as ordered by the court for good cause shown;

(b) the name and address, if known, of the respondent;

(c) specific actions and dates of the actions constituting the alleged wrongful lien;

(d) if there is a prior court order concerning the same conduct, the name of the court in which the order was rendered; and

(e) corroborating evidence of a wrongful lien, which may be in the form of a police report, affidavit, record, statement, item, letter, copy of the lien, or any other evidence which tends to prove the allegation of wrongful lien.

(2) If the court determines there is reason to believe that a wrongful lien has been made, uttered, recorded, or filed, the court may issue an ex parte civil wrongful lien injunction that includes any of the following:

(a) enjoining the respondent from making, uttering, recording, or filing any further liens without specific permission of the court;

(b) ordering that the lien be nullified; and

(c) any other relief necessary or convenient for the protection of the petitioner and other specifically designated persons under the circumstances.

(3) An ex parte civil wrongful lien injunction issued under this section shall state on its face:

(a) that the respondent is entitled to a hearing, upon written request filed with the court within 10 days of the service of the injunction;

(b) the name and address of the district court where the request may be filed;

(c) that if the respondent fails to request a hearing within 10 days of service, the ex parte civil wrongful lien injunction is automatically modified to a civil wrongful lien injunction without further notice to the respondent and that the civil wrongful lien injunction expires three years after service on the respondent;

(d) the following statement: "Attention. This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted for the crime of making a wrongful lien and any other crime you may have committed in disobeying this order."; and

(e) that if the respondent requests, in writing, a hearing after the ten-day period specified in Subsection (3)(a) the court shall set a hearing within a reasonable time from the date the hearing is requested.

(4) The ex parte civil wrongful lien injunction shall be served on the respondent within 90 days after the date it is signed, and is effective upon service.

Enacted by Chapter 93, 2005 General Session